

Uses and Disclosures of Protected Health Information for Fundraising

RATIONALE

Health and Human Services notes:

“The HIPAA Privacy Rule establishes national standards to protect individuals’ medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization.”

PURPOSE

This Uses and Disclosures of Protected Health Information for Fundraising policy (Policy) establishes and describes the College’s expectations regarding when protected health information (PHI) may be used and disclosed for fundraising.

SCOPE

This Policy applies to the entire College community, which is defined as including the Davenport campus (Palmer College Foundation, d/b/a Palmer College of Chiropractic), West campus (Palmer College of Chiropractic West) and Florida campus (Palmer College Foundation, Inc., d/b/a Palmer College of Chiropractic Florida) and any other person(s), groups, or organizations affiliated with any Palmer campus.

DEFINITIONS

For the purposes of this Policy, the following terms shall have the meanings specified below:

- > The term **“business associate”** refers to a person or entity not affiliated with Palmer College of Chiropractic that performs or assists in performing for or on behalf of any unit in the Palmer College of Chiropractic Health Care Component, business support functions/services that involve the use of Protected Health Information.
- > The term **“College”** refers to Palmer College of Chiropractic, including operations on the Davenport campus; West campus; and Florida campus.

- > The term **“covered entity”** refers to a health plan, health care clearinghouse, or health care provider that transmits any health information in electronic form in connection with a transaction covered by HIPAA.
- > The term **“demographic information”** refers to name, address and other contact information, age, gender and date of birth. The term does *not* include any information about an individual’s illness or treatment.
- > The term **“disclosure”** refers to the release, transfer, provision of access to, or divulging in any manner of PHI by an individual within the HCC or ACE with a person or entity outside the HCC or ACE.
- > The term **“fundraising”** refers to appeals for money, sponsorship of events and other similar events. Fundraising does not include royalties or remittances for the sale of products of third parties except auctions, rummage sales and the like.
- > The acronym **“HITECH”** refers to the **Heath Information Technology for Economic and Clinical Health Act** enacted as part of the American Recovery and Reinvestment Act of 2009, to promote the adoption and meaningful use of health information technology.
- > The term **“Palmer College of Chiropractic Health Care Component”** (PCC HCC) refers to those health care units of Palmer College Foundation and Palmer College of Chiropractic West that have been designated as part of its health care component. For more information, refer to the Institutional Policy, Designation of the Palmer College of Chiropractic Health Care Component.
- > The term **“protected health information”** (PHI) refers to information, including demographic information, which relates to the individual’s past, present or future physical or mental health or condition; the provision of health care to the individual; or the past, present or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual. PHI includes many common identifiers (e.g. name, address, birthdate, Social Security number) when such can be associated with the health information listed above. PHI does not include student records held by educational institutions or employment records held by employers. However, this information is still treated confidentially under other applicable laws.
- > The term **“use”** refers to the sharing, employment, application, utilization, examination, or analysis of PHI by an individual within the PCC HCC or the PCC ACE.

ADMINISTRATIVE RULES

All Fundraising activities at Palmer College of Chiropractic ACE will be in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including the Final Omnibus Rule of 2013.

The Advancement Office is responsible for all fundraising of any kind, and all gift acceptance. All fundraising for the College that involves the use of PHI and requires patient authorization must be done through the Advancement Office.

- > Advancement Office
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Requirements of the Privacy rule of HIPAA and HITECH for Use and/or Disclosure of PHI for Fundraising by the PCC HCC

FUNDRAISING REQUIRING PATIENT WRITTEN AUTHORIZATION

If the PCC HCC desires to use or disclose any PHI of a patient other than as described below in for fundraising purposes, this may be done only after the patient has authorized this use/disclosure by completing a [Marketing/Fundraising Authorization for Use/Disclosure of Medical Information](#) form (see “Additional Information” below in this Policy). All such fundraising must be done in coordination with the Advancement Office. The College will assist in obtaining the needed patient authorization for this type of fundraising and retain the authorizations as required under the HIPAA Privacy Rule.

FUNDRAISING THAT DOES NOT REQUIRE PATIENT WRITTEN AUTHORIZATION

Fundraising that does not involve the use or disclosure of PHI by the PCC HCC or that involves the use or disclosure by the PCC HCC of only that information described below (see “2. Fundraising Involving the Use or Disclosure of Demographic Information and Other Limited Information as Described Below to a Business Associate”) in this Policy does *not* require a patient authorization.

1. Fundraising Not Involving the Use or Disclosure of PHI by the PCC HCC.

If an individual (patient, family or friend) approaches a PCC staff member and requests information about how to donate, this information may be provided and/or the donation accepted without any authorization. When individuals spontaneously donate, not in response to a fundraising solicitation, this donation is not covered by the Privacy Rule.

2. Fundraising Involving the Use or Disclosure of Demographic Information and Other Limited Information as Described Below to a Business Associate.

Without the patient's written authorization, the PCC HCC may use internally or disclose outside of the PCC HCC to a business associate (e.g., to Advancement Office) for fundraising on its behalf:

- a) Demographic information (as defined above);
 - b) Dates of health care provided to the patient;
 - c) Department of service (e.g., cardiology, pediatrics);
 - d) Treating physician;
 - e) Outcome information (including death or sub-optimal treatment); and
 - f) Health insurance status.
- i. The relevant Notice of Privacy Practices (see Institutional Policy, Notice of Privacy Practices (NPP) Distribution and Acknowledgement) must contain a statement that the PCC HCC may contact the patient to raise funds for the PCC HCC and describe the individual's right to opt out of receiving communications. The actual opportunity to opt out is not required to be provided pre- solicitation.
 - ii. Each fundraising communication must provide the individual with a clear and conspicuous opportunity to opt out of receiving any further fundraising communications. The method for opt out must not require the individual to incur an undue burden or more than a nominal cost.
 - iii. The PCC HCC may not condition treatment or payment on the

individual's choice concerning the receipt of further communications related to fundraising.

- iv. The PCC HCC may not make fundraising communications to an individual who has opted out of receiving such communications.
- v. Individuals who have opted out of receiving fundraising communications may be given the opportunity to opt back in, but only through an affirmative step to opt back in (e.g., an opt out may not lapse after a period of time).

Mailing Lists

With prior approval from the Advancement Office, the PCC HCC may use PHI, including disease or condition information, without a patient authorization, to develop mailing lists for purposes of identifying individuals to whom an authorization for use of PHI for fundraising should be sent.

Minimum Necessary

The PCC HCC with prior approval from the Advancement Office, must identify and use or disclose only the minimum set of PHI necessary when using or disclosing PHI for fundraising.

Fundraising Databases Prior to April 14, 2003

Any database in existence as of April 14, 2003 used for fundraising purposes must be purged of any health related information about the individual. Only the information described in 2. under the section [Fundraising that Does Not Require Patient Written Authorization](#) in this Policy. Also, donation history may be maintained in such databases for fundraising purposes.

DOCUMENTATION REQUIREMENTS

The PCC HCC unit must document and maintain all patient/client authorizations for a period of at least six (6) years, from the date of its creation or the date when it last was in effect, whichever is later.

STANDARD INSTITUTIONAL POLICY PROVISIONS

Institutional policies are supplemented by provisions that are applicable to all institutional policies. It is the responsibility of all employees and students to know and comply with these standards.

Additional Information

ASSOCIATED POLICIES, PROCESSES AND/OR PROCEDURES

This Policy is supplemented below. It is the responsibility of all employees and students to know and comply with policies and procedures as supplemented.

POLICIES

- > [Designation of the Palmer College of Chiropractic Health Care Component](#)
- > [Marketing with the Use of Protected Health Information](#)
- > [Notice of Privacy Practices \(NPP\) Distribution and Acknowledgement](#)

PROCESSES AND/OR PROCEDURES

- > N/A

FORMS/INSTRUCTIONS

- > [Marketing/Fundraising Authorization for Use/Disclosure of Medical Information](#)

OTHER RELATED INFORMATION

- > 45 CFR 164.514(f) (HIPAA Privacy Rule)

CONTACTS

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HISTORY

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